

specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship.” Applicants believe this requirement to be inappropriate. It is not a requirement of alternative language that the alternative elements possess at least one property in common which is mainly responsible for their function in the claimed relationship. Rather, the MPEP § 2173.(h) only requires that alternative language “present no uncertainty or ambiguity with respect to the questions of scope or clarity of the claims.” The claim clearly sets out that one of a defined set of parameters is included in a private group. The Examiner seems to be requiring that the alternative language of claim 8 meet the requirements of a Markush group. A Markush group is not being claimed in claim 8 as requisite language is not being used nor is a Markush group in claim 8 desired by the Applicants. Claim 8 simply claims that any combination of the listed parameters may be included in the set of private group parameters. It is kindly requested that if the Examiner maintains this rejection of claim 8, that the Examiner suggest proper alternative language.

## **II. Claims Rejected Under 35 U.S.C. §103**

Claims 1-3, 5-8, 11, 22-28 and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,167,538 issued to Neufeld, et al. (hereinafter “Neufeld”) in view of U.S. Patent No. 6,311,056 B1 issued to Sandidge (hereinafter “Sandidge”). Applicants respectfully disagree for the following reasons.

In order to establish a *prima facie* case of obviousness the Examiner must show that the cited references combined teach or suggest each element of the claim. In regard to claim 1, this claim states “registering a performance monitoring driver as a private driver with a real time operating system (RTOS) of an input/output (I/O) processor.” The Examiner mischaracterizes Neufeld as teaching these elements of claim 1. The Examiner cites driver A 308 and driver B 318 at Figure 3 of Neufeld as teaching registering a performance monitoring driver. However, driver A 308 and driver B 318 do not represent performance monitoring drivers. Rather, driver A represents a hardware driver for hardware component A 306. See Neufeld, col. 6, lines 51-52. Driver B represents a hardware driver for hardware component B 316. See Neufeld, col. 6, lines 58-60. In fact, Neufeld teaches a performance monitoring program that receives information from

system components when drivers of components send events to the monitoring program. See Abstract, Neufeld. Thus, Neufeld teaches a monitoring program separate and distinct from the hardware drivers. Therefore, the Examiner has failed to identify any part of Neufeld that teaches a performance monitoring driver.

The Examiner cites a keyboard controller 626 of Figure 6 of Neufeld as teaching input/output processor with a real time operating system. However, Neufeld teaches a simple keyboard controller that is used to receive input from a keyboard 614 and send decoded symbols for each pressed key to microprocessor 616 over bus 628. See Neufeld, col. 11, lines 15-18. One of ordinary skill in the art would understand that such a keyboard controller does not make use of a real time operating system. Thus, Neufeld does not teach a real time operating system of an input/output processor.

Further, Neufeld does not teach registering a performance monitoring driver as a private driver. The Examiner in Paper No. 6 does not indicate any part of Neufeld that teaches registering a performing driver as a private driver.

Finally, Neufeld does not teach registering a driver with a real time operating system. The Examiner does not indicate any part of Neufeld that teaches registering a performance monitoring driver with a real time operating system. Rather, Neufeld teaches registering drivers in a system with a performance monitor. See Neufeld, col. 8, lines 3-8. Thus, Neufeld does not teach a performance monitoring driver, a real time operating system or registering a driver with a real time operating system. Therefore, Neufeld does not teach each of the elements of claim 1.

Sandidge does not correct the defects of Neufeld. The Examiner has not indicated any part of Sandidge that teaches registering a performance monitoring driver as a private driver with a real time operating system of an input/output processor. Therefore, Neufeld combined with Sandidge does not teach each element of claim 1. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 1 are requested.

In regard to claims 2, 3, 5-8 and 11, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claim 1,

these claims are not obvious over Neufeld in view of Sandidge. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 2, 3, 5-8 and 11 are requested.

In regard to claim 22, this claim includes many of the elements of claim 1 including to "register a performance monitoring driver as a private driver with a real time operating system (RTOS) of an input/output (I/O) processor." See claim 22, lines 3-4. Thus, for the reason mentioned in regard to claim 1, this claim is not obvious over Neufeld in view of Sandidge. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 22 are requested.

In regard to claims 23-32, these claims depend from independent claim 22 and incorporate the limitations thereof. Thus, at least for the reasons mentioned with regard to claim 22 these claims are not obvious over Neufeld in view of Sandidge. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 23-32 are requested.

Claims 9, 10, 15, 29, 30 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Neufeld in view Sandidge in further view of U.S. Patent No. 6,052,694 issued to Bromberg ("Bromberg"). Applicants respectfully disagree for the following reasons.

Claims 9 and 10 depend from independent claim 1 and claims 29, 30 and 32 depend from independent claim 22. Thus, for reasons mentioned in regard to claims 1 and 22, Neufeld and Sandidge do not teach the elements of claims 9, 10, 29, 30, and 32. Bromberg does not cure the defects of Neufeld and Sandidge. Bromberg does not teach registering a performance monitoring driver as a private driver with a real time operating system of an input/output processor. The Examiner does not cite any section of Bromberg that teaches these elements of claims 9, 10, 15, 29, 30 and 32. Therefore, Neufeld, Sandidge and Bromberg combined do not teach each of the elements of claims 9, 10, 15, 29, 30 and 32. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

### **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely claims 1-3, 5-11, 15 and 22-32 patentably define the subject invention over the prior art of record, and are in

condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

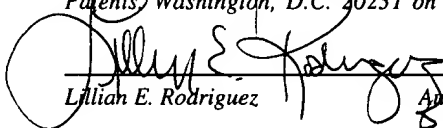
Respectfully submitted,  
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*I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Non-Fee Amendment, Assistant Commissioner for Patents, Washington, D.C. 20231 on August 1, 2002.*

  
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